IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.403 OF 2006

Malhari Baba Chavan & Anr. ...Appellants
Vs.
Vithoba Dagadu Chavan (deceased)
through his legal heirs ...Respondents

Mr P.A. Pol for the Appellants.
None for the Respondents.

CORAM : A. S. OKA, J.
DATE : APRIL 12, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Appellants. The Appellants are the original Defendant Nos.1 and 2. The Trial Court passed a decree of declaration declaring the original Plaintiffs to be lawful owners and possessors of the suit land bearing Gat No.1385 and 1718. The Trial Court also directed the Appellants to deliver possession of area of 7 Ares out of Gat No.1385 to the Plaintiffs as shown in the map at Exhibit 83. An Appeal was preferred to the District Court by the present Appellants. In paragraph No.9 of the decision of the Appellate Court, it is stated that the challenge in the Appeal was confined only to the decree passed as regards Gat No.1718. The Appellate Court dismissed the Appeal.

2. The learned Counsel appearing for the Appellants has placed reliance on the order dated 31st January, 2001 passed by the Superintendent of Land Records, Satara. He submitted that though an Appeal has been preferred against the said order by the original Plaintiffs, there is no stay granted to the operation of the said order. He stated that though under the consolidation scheme land bearing Gat No.1718 is allotted to the original Plaintiffs, the entries made in the scheme are based on defective revenue record. He, therefore, submitted that the courts could not have relied upon the record of the consolidation scheme.

3. I have considered the submissions. The Judgment and Order passed by the Superintendent of Land Records relied upon the Appellants is in a Mutation Entry proceedings. The said order is passed in an Appeal preferred by some of the Respondents. The present Appellants are the Respondents in the said Appeal. In the said Judgment, the Superintendent of Land Records has observed that as the first Appellate Court in Civil Appeal No.363 of 1998 had granted stay to the decree passed by the civil Court in Regular

Civil Suit No.202 of 1989, it was improper to grant the prayers which were made by the Appellants before him and that is the reason why he has confirmed the Mutation Entry No.1306.

4. If in Consolidation Proceedings the land bearing Gat No.1718 is allotted to the original Plaintiffs and if there is no challenge to the Consolidation Proceedings by the Appellants by filing appropriate proceeding, no fault can be found with the view taken by the courts below. No substantial questions of law arise. Second Appeal is dismissed with no orders as to costs.

JUDGE